MONTANA LEGISLATIVE HISTORY

Chapter 162 1997

Bill H _____ S 145 Original bill & history ____C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Mar 10	✓ C	Hearing Date(s) Jan 17	____C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

SB 144 INTRODUCED BY KEATING, ET AL. *LC0571 DRAFTER: FOX*

PROVIDE FOR THE INCLUSION OF PARTICIPATING OBSTETRICIANS AND GYNECOLOGISTS AS PRIMARY CARE PHYSICIANS

1/09	INTRODUCED		
1/09	FIRST READING		
1/09	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/22	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	50	0
2/12	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/13	FIRST READING		
2/13	REFERRED TO BUSINESS & LABOR		
3/04	HEARING		
3/05	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/15	2ND READING CONCURRED	93	5
3/17	3RD READING CONCURRED	94	5
	RETURNED TO SENATE WITH AMENDMENTS		
3/19	2ND READING AMENDMENTS CONCURRED	50	0
3/20	3RD READING CONCURRED AS AMENDED	50	0
3/25	SIGNED BY PRESIDENT		
3/26	SIGNED BY SPEAKER		
3/26	TRANSMITTED TO GOVERNOR		
4/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 198		
	EFFECTIVE DATE: 04/02/97		

SB 145 INTRODUCED BY BISHOP *LC0506 DRAFTER: PETESCH*

CLARIFY THE BAR AGAINST SUBSEQUENT PROSECUTION AFTER A FORMER PROSECUTION IN ANOTHER JURISDICTION

1/09	INTRODUCED		
1/09	FIRST READING		
1/09	REFERRED TO JUDICIARY		
1/17	HEARING		
1/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/23	2ND READING PASSED	49	0
1/24	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
1/25	FIRST READING		
1/25	REFERRED TO JUDICIARY		
3/10	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/15	2ND READING CONCURRED	97	1
3/17	3RD READING CONCURRED	99	1
	RETURNED TO SENATE		
3/19	SIGNED BY PRESIDENT		
3/21	SIGNED BY SPEAKER		
3/21	TRANSMITTED TO GOVERNOR		
3/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 162		
	EFFECTIVE DATE: 03/26/97		

SB 146 INTRODUCED BY BISHOP, ET AL. *LC0035 DRAFTER: EVERTS*

SET UNIFORM STATE AMBIENT SULFUR DIOXIDE STANDARDS

1/09	INTRODUCED
1/09	FIRST READING

of a suspended sentence. In one case a fellow was picked up in Gallatin County and given a six-month suspended sentence, providing that he would obey the law. But he was picked up again for DUI and driving with no insurance, and he appealed. The District reviewed his case. The Supreme Court ruled that he could have a new trial, but not a jury trial.

Questions From Committee Members and Responses: None

Closing by Sponsor: None

{Tape: 1; Side: A; Approx. Time Count: #3.8; Comments: None.}

HEARING ON SB 145

Sponsor: **SENATOR AL BISHOP, SD 9, Billings.**

Proponents: **John Connor, Prosecutor, Office of the Attorney General.**

Opponents: None

Opening Statement by Sponsor: **SENATOR AL BISHOP, SD 9, Billings.** I believe striking language on lines 17-20 accomplishes the goal of eliminating double prosecution for the same situation (misdemeanor & felony criminal mischief).

Proponents' Testimony: **John Connor, Prosecutor, Department of Justice.** I apologize for not having an opportunity to visit with **SENATOR BISHOP** earlier. There may be an unforeseen consequence, as a definition could be changed in justice court for misdemeanors, and subsequently be changed in district court. I tried to figure out better language with Valencia Lane this morning, and have a proposal for her to review. **CHAIRMAN CRIPPEN.** I see no problem with that.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: **SENATOR BISHOP** made no closing comments.

{Tape: 1; Side: A; Approx. Time Count: #8.7; Comments: None.}

HEARING ON SB 143

Sponsor: **SENATOR DARYL TOEWS, SD 48, Lustre.**

Proponents: None

Opponents: **Ray Myers, Boulder**
John Bloomquist, Montana Stock Growers Association, Helena

They must do a separate motion in court to stop, stay, vacate what they've already done. This adds to delay and greater costs in attorney fees.

SENATOR ESTRADA. I like the bill, and believe it would make people talk to each other.

Vote: SENATOR HALLIGAN'S MOTION TO ADOPT THE AMENDMENTS TO SB 32 CARRIED UNANIMOUSLY.

(EXHIBITS #9, #10) SENATOR HALLIGAN. Attorneys cannot charge a lump sum fee in family law. They're required to charge hourly fees.

Motion/Vote: SENATOR HALLIGAN MADE A MOTION THAT SB 32 DO PASS AS AMENDED. This motion includes the change in his amendments on page 2, line 20. THE MOTION CARRIED UNANIMOUSLY.

{Tape: 2; Side: B; Approx. Time Count: #00, 12:07 p.m. ; Comments: None.}

EXECUTIVE ACTION ON SB 145

Amendments: Department of Justice amendments **(EXHIBIT #11)**

Discussion: John Connor, Department of Justice. I believe this is the most complicated are of criminal law, because of the two courts with separate, overlapping jurisdictions. In Sword, the Court said it's confusing.

By striking all of this language, it could allow someone, although probably rare, to be charged with both a misdemeanor and felony in separate courts. For example, felony theft could be charged as a misdemeanor in order to make $600 restitution. Separate and overlapping concurrent jurisdiction seems to be the same thing.

I believe this amendment would clarify this situation for the court, and give the legislative intent on page 1, lines 16-17. We don't want to prosecute someone for the same problem twice.

Motion/Vote: SENATOR BISHOP MADE A MOTION THAT THE AMENDMENTS PROPOSED BY JOHN CONNOR BE ADOPTED. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR BISHOP MADE A MOTION THAT SB 145 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 11
DATE 1-17-97
BILL NO. SB145

Amendments to Senate Bill No. 145
First Reading Copy

For the Committee on Judiciary

Prepared by Valencia Lane
January 18, 1997

1. Title, line 4.
Strike: "CONCURRENT JURISDICTION PROVISION FOR"
Insert: "BAR AGAINST A SUBSEQUENT PROSECUTION AFTER A"

2. Title, line 5.
Strike: "PROSECUTIONS"
Insert: "PROSECUTION"

3. Page 1, line 16.
Strike: "concurrent"
Following: first "of"
Strike: "this"
Insert: "any"
Following: first "state"
Strike: "and of the United States or another state"
Insert: "or federal court"

4. Page 1, line 17.
Following: "any"
Strike: "other"

5. Page 1, line 18 and 19.
Following: "state" on line 18
Strike: remainder of line 18 through "state" on line 19

SENATE STANDING COMMITTEE REPORT

January 20, 1997

MR. PRESIDENT:
We, your committee on Judiciary having had under consideration SB 145 (first reading copy -- white), respectfully report that SB 145 be amended as follows and as so amended do pass.

Signed: _____
Senator Bruce Crippen, Chair

That such amendments read:

1. Title, line 4.
Strike: "CONCURRENT JURISDICTION PROVISION FOR"
Insert: "BAR AGAINST A SUBSEQUENT PROSECUTION AFTER A"

2. Title, line 5.
Strike: "PROSECUTIONS"
Insert: "PROSECUTION"

3. Page 1, line 16.
Strike: "concurrent"
Following: first "of"
Strike: "this"
Insert: "any"
Following: first "state"
Strike: "and of the United States or another state"
Insert: "or federal court"

4. Page 1, line 17.
Following: "any"
Strike: "other"

5. Page 1, line 18 and 19.
Following: "state" on line 18
Strike: remainder of line 18 through "state" on line 19

-END-

Amd. Coord.
Sec. of Senate

MONTANA SENATE
1997 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-17-97

NAME	PRESENT	ABSENT	EXCUSED
SUE BARTLETT	✓		
AL BISHOP	✓		
STEVE DOHERTY	✓		✓
SHARON ESTRADA	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
WALT MC NUTT	✓		
LORENTS GROSFIELD, VICE CHAIRMAN	✓		
BRUCE CRIPPEN, CHAIRMAN	✓		

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HEARING ON SB 145

Opening Statement by Sponsor: SEN. AL BISHOP
{Tape: 1; Side: A; Approx. Time Count: 1.6; Comments: This set of minutes is recorded on 90-minute tapes.}

Proponents' Testimony:

BETH BAKER, Department of Justice
{Tape: 1; Side: A; Approx. Time Count: 10.3}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 13.0 - 28.5}

Closing by Sponsor: SEN. BISHOP
{Tape: 1; Side: A; Approx. Time Count: 28.6}

HEARING ON SB 141

Opening Statement by Sponsor: SEN. KEN MESAROS
{Tape: 1; Side: A; Approx. Time Count: 29.6}

Proponents' Testimony:

PATRICK GRAHAM, Department of Fish, Wildlife and Parks EXHIBIT 1
{Tape: 1; Side: A; Approx. Time Count: 34.3}

BETH BAKER, Department of Justice
{Tape: 1; Side: A; Approx. Time Count: 37.6}

Questions From Committee Members and Responses:
{Tape: 1; Side: B; Approx. Time Count: 0.1}

Closing by Sponsor: SEN. MESAROS
{Tape: 1; Side: B; Approx. Time Count: 6.3}

HEARING ON SB 142

Opening Statement by Sponsor: SEN. REINY JABS
{Tape: 1; Side: B; Approx. Time Count: 7.4}

Questions From Committee Members and Responses:
{Tape: 1; Side: B; Approx. Time Count: 9.7 - 13.2}

Closing by Sponsor: SEN. JABS
{Tape: 1; Side: B; Approx. Time Count: 13.3}

HEARING ON SB 138

Opening Statement by Sponsor: SEN. MIKE FOSTER
{Tape: 1; Side: B; Approx. Time Count: 13.9}

Opponents' Testimony:

CHRISTOPHER MILLER, Powell County Attorney
{Tape: 1; Side: B; Approx. Time Count: 17.0}

MIKE McGRATH, Lewis and Clark County Attorney
{Tape: 1; Side: B; Approx. Time Count: 21.9; Comments: Also representing County Attorney Association.}

Informational Testimony :

BETH BAKER, Department of Justice **EXHIBIT 2**
{Tape: 1; Side: B; Approx. Time Count: 22.6}

Proponents' Testimony:

GORDON MORRIS, Montana Association of Counties
{Tape: 1; Side: B; Approx. Time Count: 25.5; Comments: This proponent appeared late and was allowed without objection to testify as a proponent though that portion of the hearing had closed.}

Questions From Committee Members and Responses:
{Tape: 1; Side: B; Approx.Time Count: 26.3-Tape 2; Side A; 11.9}

Closing by Sponsor: **SEN. FOSTER**
{Tape: 2; Side: A; Approx. Time Count: 22.0}

EXECUTIVE ACTION ON SB 138

Motion: **REP. SANDS moved SB 138 BE CONCURRED IN.**
{Tape: 2; Side: A; Approx. Time Count: 25.6}

Discussion:
{Tape: 2; Side: A; Approx. Time Count: 25.8 - 30.9

Vote: The motion carried 15 - 2; REPS. AHNER and CLARK voting no. REPS. WYATT and GRIMES voted aye by proxy. **REP. GRIMES will carry SB 138.**

EXECUTIVE ACTION ON SB 145

Motion: **REP. BOHARSKI moved SB 145 BE CONCURRED IN.**
{Tape: 2; Side: A; Approx. Time Count: 31.2}

Discussion:
{Tape: 2; Side: A; Approx. Time Count: 31.5-35.5; Comments: John MacMaster explained the bill.}

Motion/Vote: **REP. MC GEE moved to amend SB 145.** The motion failed 3 - 14. REPS. MC GEE, CURTISS and CLARK voting aye.
{Tape: 2; Side: A; Approx. Time Count: 38.1}

Vote: The motion to concur in SB 145 carried 15 - 1. REP. MC GEE voting no. REPS. TASH, WYATT and KOTTEL voted aye by proxy. **REP. TASH will carry SB 145.**

EXECUTIVE ACTION ON SB 141

Motion: **REP. BOHARSKI moved SB 141 BE CONCURRED IN.**
{Tape: 2; Side: A; Approx. Time Count: 40.3}

Discussion:
{Tape: 2; Side: A; Approx. Time Count: 42.1-Tape 2; Side B; 1.8}

Vote: The motion carried 15 - 2; REPS. HURDLE and CURTISS voting no. REPS. HANSON, TASH, KOTTEL and WYATT voted aye by proxy. **REP. REHBEIN will carry SB 141.**

EXECUTIVE ACTION ON SB 142

Motion: **REP. BOHARSKI moved SB 142 BE CONCURRED IN.**
{Tape: 2; Side: B; Approx. Time Count: 1.9}

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 2.4}

Vote: The motion carried 16 - 0. REPS. WYATT, KOTTEL and TASH voted aye by proxy. **REP. PEASE will carry SB 142.**

EXECUTIVE ACTION ON SB 79

Motion: **REP. ELLINGSON moved SB 79 BE CONCURRED IN.**
{Tape: 2; Side: B; Approx. Time Count: 5.8}

Motion: **REP. SOFT moved to amend SB 79** **EXHIBIT 3**
{Tape: 2; Side: B; Approx. Time Count: 6.3}

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 7.6 - 15.0}

Vote: The motion carried 16 - 1; REP. MOLNAR voting no. REPS. WYATT, KOTTEL and TASH voted aye by proxy.

Motion: **REP. ELLINGSON moved SB 79 BE CONCURRED IN AS AMENDED.**
{Tape: 2; Side: B; Approx. Time Count: 15.4}

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 15.5}

Motion/Vote: **REP. ANDERSON moved an amendment to provide a sunset clause and require a report to the next session to re-authorize the provision.** The motion carried unanimously.
{Tape: 2; Side: B; Approx. Time Count: 24.5}

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL DATE 3/10/97

NAME	PRESENT	ABSENT	EXCUSED
REP. BOB CLARK, CHAIRMAN	✓		
REP. DANIEL MC GEE, VICE CHAIR	✓		
REP. DIANA WYATT, VICE CHAIR		✓	✓
REP. CHRIS AHNER	✓		
REP. SHIELL ANDERSON	✓		
REP. ELLEN BERGMAN	✓		
REP. WILLIAM BOHARSKI	✓		
REP. AUBYN CURTISS	✓		
REP. JON ELLINGSON	✓		
REP. DUANE GRIMES	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. JOAN HURDLE	✓		
REP. DEB KOTTEL	9:10 ✓	✓	
REP. LINDA MC CULLOCH	✓		
REP. BRAD MOLNAR	✓		
REP. GERALD PEASE	✓		
REP. DIANE SANDS	8:45 ✓		
REP. LIZ SMITH		✓	
REP. LOREN SOFT	✓		
REP. BILL TASH	✓		

HOUSE STANDING COMMITTEE REPORT

March 10, 1997

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 145** (third reading copy -- blue) **be concurred in**.

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Tash

Committee Vote:
Yes 15, No 1.

3/10

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HOUSE STANDING COMMITTEE REPORT

March 10, 1997

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 79** (third reading copy -- blue) **be concurred in as amended**.

Signed: Bob Clark
Bob Clark, Chair

And, that such amendments read: **Carried by: Rep. Kottel**

1. Title, line 6.
Strike: "AND"

2. Title, line 7.
Following: "ACT"
Insert: "; PROVIDING FOR A REPORT TO THE 1999 REGULAR SESSION OF THE LEGISLATURE; AND PROVIDING A TERMINATION DATE"

3. Page 2, line 15.
Strike: "OR"

4. Page 2, line 17.
Strike: "."
Insert: "; or"

5. Page 2, line 18.
Following: line 17
Insert: "(c) a person on behalf of an educational, charitable, or religious institution, when done in conjunction with an attorney licensed to practice law in this state."

6. Page 8, line 29.
Insert: "NEW SECTION. **Section 16. Report to legislature.** The state auditor shall, as provided in 5-11-210, report to the 1999 regular session of the legislature on the implementation of [sections 1 through 15]. The report must include a detailed record of the types of complaints received, a summary of any fines imposed and received, and

3/10

Committee Vote:
Yes 14, No 3.

any other actions taken to enforce compliance with [sections 1 through 15]."
Renumber: subsequent section

7. Page 9, line 2.
Insert: "NEW SECTION. **Section 18. Termination.** [This act] terminates October 1, 1999."

-END-